

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BASIL WILLIAMS,  
Petitioner,

v.

UNITED STATES,  
Respondent,

05-11291-NG  
No. 05-2701

PETITION TO PROCEED IN  
PAUPERIS

COMES NOW, Basil Williams, the petitioner in the matter stated above; who is currently appealing the district court's decision denying relief, dated 7/9/05 (Hon. N.Gertner, USDJ); to the United States Court of Appeals for the First Circuit, and pursuant to that Court's 11/30/05 Order, I hereby request that I be permitted to proceed without prepayment of the filing fee based on my indigency (See Attached Affidavit); and that upon review of the material, it is advanced that the appeal is taken in good faith.

Respectfully,

Basil Williams  
Basil Williams  
22650-038  
FCI Raybrook  
Raybrook, NY  
12977

December 8, 2005

To: AUSA  
District of Massachusetts

United States Court of Appeals  
For the First Circuit

# Affidavit to Accompany Motion for Leave to Appeal in Forma Pauperis

District Court No. 05-11291Appeal No. 05-2701

Basil Williams

v.

United States

**Affidavit in Support of Motion**

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: Basil Williams**Instructions**

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 11/7/05**My issues on appeal are:**

The district court's recharacterization of a motion, as a section 2255, violated my due process rights under Supreme Court precedent.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Gifts	\$ 0	\$ N/A	\$ 0	\$ N/A
Alimony	\$ 0	\$	\$ 0	\$
Child support	\$ 0	\$	\$ 0	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$ 0	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$ 0	\$
Unemployment payments	\$ 0	\$	\$ 0	\$
Public-assistance (such as welfare)	\$ 0	\$	\$ 0	\$
Other (specify):	\$ 0	\$	\$ 0	\$
<b>Total Monthly income:</b>	\$ 0	\$	\$ 0	\$

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
Prisoner	FCI Raybrook	/	/
/	/	/	/
/	/	/	/

3. List your spouses's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	/	/	/
/	/	/	/
/	/	/	/

4. How much cash do you and your spouse have? \$ 0

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
<u>N/A</u>	<u>/</u>	\$ <u>0</u>	\$ <u>0</u>
<u>/</u>	<u>/</u>	\$ <u>0</u>	\$ <u>0</u>
<u>/</u>	<u>/</u>	\$ <u>0</u>	\$ <u>0</u>

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	(Value)	Other real estate	(Value)	Motor Vehicle #1	(Value)
<u>0</u>		<u>0</u>		Make & year: <u>0</u>	
<u>0</u>		<u>0</u>		Model: <u>0</u>	
<u>0</u>		<u>0</u>		Registration#: <u>0</u>	
Motor Vehicle #2	(Value)	Other assets	(Value)	Other assets	(Value)
Make & year: <u>0</u>		<u>0</u>		<u>0</u>	
Model: <u>0</u>		<u>0</u>		<u>0</u>	
Registration#: <u>0</u>		<u>0</u>		<u>0</u>	

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>0</u>	<u>0</u>	<u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
<u>0</u>	<u>0</u>	<u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>
<u>0</u>	<u>0</u>	<u>0</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ 0	\$ N/A
Are any real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ 0	\$
Home maintenance (repairs and upkeep)	\$ 0	\$
Food	\$ 0	\$
Clothing	\$ 0	\$
Laundry and dry-cleaning	\$ 0	\$
Medical and dental expenses	\$ 0	\$
Transportation (not including motor vehicle payments)	\$ 0	\$
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$
Insurance (not deducted from wages or included in Mortgage payments)	\$ 0	\$
Homeowner's or renter's	\$ 0	\$
Life	\$ 0	\$
Health	\$ 0	\$
Motor Vehicle	\$ 0	\$
Other: 0	\$ 0	\$
Taxes (not deducted from wages or included in Mortgage payments)(specify): 0	\$ 0	\$
Installment payments	\$ 0	\$
Motor Vehicle	\$ 0	\$
Credit card (name): 0	\$ 0	\$
Department store (name): 0	\$ 0	\$
Other: 0	\$ 0	\$

Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>N/A</u>
Regular expenses for operations of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>/</u>
Other (specify): <u>γ</u>	\$ <u>0</u>	\$ <u>/</u>
<b>Total monthly expenses:</b>	\$ <u>0</u>	\$ <u>/</u>

9. Do you expect any major changes to your monthly income or expenses in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \$ /

If yes, state the attorney's name, address, and telephone number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ 0

If yes, state the person's name, address, and telephone number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

*Prisoner proceeding Pro Se*

